

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

JOHN DOES 1–2, JANE DOES 1–3,)	
JACK DOES 1–750, JOAN DOES 1–750,)	
)	
Plaintiffs,)	Case No. 1:21-CV-05067-AMD-TAM
v.)	
)	
KATHY HOCHUL, in her official capacity as)	
Governor of the State of New York,)	
HOWARD A. ZUCKER, in his official capacity)	
as Commissioner of the New York State)	
Department of Health, TRINITY HEALTH,)	
INC., NEW YORK-PRESBYTERIAN)	
HEALTHCARE SYSTEM, INC.,)	
WESTCHESTER MEDICAL CENTER)	
ADVANCED PHYSICIAN SERVICES, P.C.,)	
)	
Defendants.)	

**PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY
IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER**

Plaintiffs, in support of their Motion for Temporary Restraining Order (Doc. 2), hereby submit for the Court’s consideration the Order of the Northern District of New York, entered today, granting a temporary restraining order (TRO) to the plaintiffs in *Dr. A. v. Hochul*, No. 1:21-cv-1009 (N.D.N.Y. Sept. 14, 2021) (attached hereto as Exhibit A).

The *Dr. A.* TRO provides, in pertinent part:

2. Defendants, their officers, agents, employees, attorneys and successors in office, and all other persons in active concert or participation with them, are temporarily ENJOINED from enforcing, threatening to enforce, attempting to enforce, or otherwise requiring compliance with the [Governor’s COVID-19 Vaccine Mandate] such that:

(a) The vaccine mandate is suspended in operation to the extent that the [New York State Department of Health (DOH)] is barred from enforcing any requirement that employers deny religious exemptions from COVID-19 vaccination or that they revoke any

exemptions employers already granted before the vaccine mandate issued;

(b) The DOH is barred from interfering in any way with the granting of religious exemptions from COVID-19 vaccination going forward, or with the operation of exemptions already granted;

(c) The DOH is barred from taking any action, disciplinary or otherwise, against the licensure, certification, residency, admitting privileges or other professional status or qualification of any of the plaintiffs on account of their seeking or having obtained a religious exemption from mandatory COVID-19 vaccination; and

(d) As noted *supra*, since the August 26, 2021 regulation does not require hospital and nursing home employees to receive a vaccine until September 27, 2021, the TRO does not, as a practical matter, go into effect until that date.

Dr. A. TRO at 2–3.

The *Dr. A. TRO* does not obviate Plaintiffs’ need in this case for similar immediate relief. The *Dr. A. TRO* is necessarily temporary, and by its terms is delayed in effect until September 27. As argued at the TRO hearing in this case (Doc. 28) and supported by Plaintiffs’ Verified Complaint (Doc. 1 ¶ 5), Plaintiffs and similarly situated healthcare workers in New York are already under threat of immediate termination for not complying with the Governor’s COVID-19 Vaccine Mandate while seeking religious accommodation. Just today, in fact, a New York healthcare worker sent Plaintiffs’ counsel a copy of a notice from the employee’s hospital employer, citing the Governor’s COVID-19 Vaccine Mandate, and threatening termination if not vaccinated **by the end of today**:

Good morning—

As of this morning, you are not in compliance with the New York State vaccine mandate. If you have been vaccinated, please report your vaccine to EHS immediately. If you have not been vaccinated, I urge you to take this important step in protecting yourself, your family, your colleagues and your job. You can still walk in today and receive the vaccine.

If you are not vaccinated by end of day and do not have an approved medical exemption, Mount Sinai will be forced to begin the termination process and you will go on unpaid leave beginning Monday, September 20th. Your employment will officially end on Monday, September 27th and you will not be eligible for unemployment or any other healthcare position in New York State.

You are an important member of the Department of Surgery. We value you and we need you. Please get vaccinated.

Best,

Absent this Court's immediate relief, Plaintiffs and their coworkers employed by Defendant employers will continue to face immediate termination, and many will be terminated, between now and September 27. Thus, to preserve the rights of Plaintiffs in this case, Plaintiffs respectfully request the Court to proceed expeditiously with its consideration and ruling on Plaintiffs' TRO motion, and that the Court provide substantially the same relief to Plaintiffs as provided in the *Dr. A.* TRO but with immediate effect.

Respectfully submitted,

/s/ Roger K. Gannam

Mathew D. Staver*

Horatio G. Mihet*

Roger K. Gannam*

Daniel J. Schmid*

LIBERTY COUNSEL

P.O. Box 540774

Orlando, FL 32854

(407) 875-1776

court@lc.org

hmihet@lc.org

rgannam@lc.org

dschmid@lc.org

*Applications for admission pro hac vice pending

Attorneys for Plaintiffs